



Rep. John A. Fritchey

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LRB095 07030 AJ0 32806 a

1 AMENDMENT TO HOUSE BILL 742

2 AMENDMENT NO. _____. Amend House Bill 742 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Whistleblower Act is amended by changing
5 Sections 5, 10, 15, and 20 and by adding Section 40 as follows:

6 (740 ILCS 174/5)

7 Sec. 5. Definitions. As used in this Act:

8 "Employer" means: an individual, sole proprietorship,
9 partnership, firm, corporation, association, and any other
10 entity that has one or more employees in this State, including
11 a political subdivision of the State; a unit of local
12 government, other than a municipality with a population of
13 500,000 or more; a school district, combination of school
14 districts, or governing body of a joint agreement of any type
15 formed by two or more school districts; a community college
16 district, State college or university, any State agency whose

1 major function is providing educational services; any
2 authority including a department, division, bureau, board,
3 commission, or other agency of these entities; and any person
4 acting within the scope of his or her authority express or
5 implied on behalf of those entities in dealing with its
6 employers ~~except that "employer" does not include any~~
7 ~~governmental entity.~~

8 "Employee" means any individual who is employed on a
9 full-time, part-time, or contractual basis by an employer.

10 (Source: P.A. 93-544, eff. 1-1-04.)

11 (740 ILCS 174/10)

12 Sec. 10. Certain policies prohibited. An employer may not
13 make, adopt, or enforce any rule, regulation, or policy
14 preventing an employee from disclosing information to a
15 government or law enforcement agency if the employee has
16 reasonable cause to believe that the information discloses a
17 violation of a State or federal law, rule, or regulation or a
18 violation of any ordinance, resolution, rule, or regulation of
19 a governmental entity included in the definition of employer in
20 Section 5.

21 (Source: P.A. 93-544, eff. 1-1-04.)

22 (740 ILCS 174/15)

23 Sec. 15. Retaliation for certain disclosures prohibited.

24 (a) An employer may not retaliate against an employee who

1 discloses information in a court, an administrative hearing, or
2 before a legislative commission or committee, or in any other
3 proceeding, where the employee has reasonable cause to believe
4 that the information discloses a violation of a State or
5 federal law, rule, or regulation or a violation of any
6 ordinance, resolution, rule, or regulation of a governmental
7 entity included in the definition of employer in Section 5.

8 (b) An employer may not retaliate against an employee for
9 disclosing information to a government or law enforcement
10 agency, where the employee has reasonable cause to believe that
11 the information discloses a violation of a State or federal
12 law, rule, or regulation.

13 (Source: P.A. 93-544, eff. 1-1-04.)

14 (740 ILCS 174/20)

15 Sec. 20. Retaliation for certain refusals prohibited. An
16 employer may not retaliate against an employee for refusing to
17 participate in an activity that would result in a violation of
18 a State or federal law, rule, or regulation or a violation of
19 any ordinance, resolution, rule, or regulation of a
20 governmental entity included in the definition of employer in
21 Section 5.

22 (Source: P.A. 93-544, eff. 1-1-04.)

23 (740 ILCS 174/40 new)

24 Sec. 40. Home Rule Limitation. It is the public policy of

1 this State, pursuant to paragraphs (h) and (i) of Section 6 of
2 Article VII of the Illinois Constitution that the provisions of
3 this Act are the exclusive exercise by the State of powers and
4 functions which might otherwise be exercised by other home rule
5 units. Such powers and functions may not be exercised
6 concurrently, either directly or indirectly by any unit of
7 local government, including any home rule unit except as
8 otherwise authorized by this Act.

9 Section 10. The Whistleblower Reward and Protection Act is
10 amended by changing Sections 2 and 3 as follows:

11 (740 ILCS 175/2) (from Ch. 127, par. 4102)

12 Sec. 2. Definitions. As used in this Act:

13 (a) "State" means the State of Illinois; any agency of
14 State government; system of State colleges and universities;
15 school district; community college district; county;
16 municipality, other than a municipality with a population of
17 500,000 or more; municipal corporation; unit of local
18 government; and any combination of the above under an
19 intergovernmental agreement that includes provisions for a
20 governing body of the agency created by the agreement. and any
21 of the following entities which may elect to adopt the
22 provisions of this Act by ordinance or resolution, a copy of
23 which shall be filed with the Attorney General within 30 days
24 of its adoption: the system of State colleges and universities,

1 ~~any school district, any public community college district, any~~
2 ~~municipality, municipal corporations, units of local~~
3 ~~government, and any combination of the above under an~~
4 ~~intergovernmental agreement that includes provisions for a~~
5 ~~governing body of the agency created by the agreement.~~

6 (b) "Guard" means the Illinois National Guard.

7 (c) "Investigation" means any inquiry conducted by any
8 investigator for the purpose of ascertaining whether any person
9 is or has been engaged in any violation of this Act.

10 (d) "Investigator" means a person who is charged by the
11 Department of State Police with the duty of conducting any
12 investigation under this Act, or any officer or employee of the
13 State acting under the direction and supervision of the
14 Department of State Police, through the Division of Operations
15 or the Division of Internal Investigation, in the course of an
16 investigation.

17 (e) "Documentary material" includes the original or any
18 copy of any book, record, report, memorandum, paper,
19 communication, tabulation, chart, or other document, or data
20 compilations stored in or accessible through computer or other
21 information retrieval systems, together with instructions and
22 all other materials necessary to use or interpret such data
23 compilations, and any product of discovery.

24 (f) "Custodian" means the custodian, or any deputy
25 custodian, designated by the Attorney General under subsection
26 (i) (1) of Section 6.

1 (g) "Product of discovery" includes:

2 (1) the original or duplicate of any deposition,
3 interrogatory, document, thing, result of the inspection
4 of land or other property, examination, or admission, which
5 is obtained by any method of discovery in any judicial or
6 administrative proceeding of an adversarial nature;

7 (2) any digest, analysis, selection, compilation, or
8 derivation of any item listed in paragraph (1); and

9 (3) any index or other manner of access to any item
10 listed in paragraph (1).

11 (Source: P.A. 91-760, eff. 1-1-01.)

12 (740 ILCS 175/3) (from Ch. 127, par. 4103)

13 Sec. 3. False claims.

14 (a) Liability for certain acts. Any person who:

15 (1) knowingly presents, or causes to be presented, to
16 an officer or employee of the State or a member of the
17 Guard a false or fraudulent claim for payment or approval;

18 (2) knowingly makes, uses, or causes to be made or
19 used, a false record or statement to get a false or
20 fraudulent claim paid or approved by the State;

21 (3) conspires to defraud the State by getting a false
22 or fraudulent claim allowed or paid;

23 (4) has possession, custody, or control of property or
24 money used, or to be used, by the State and, intending to
25 defraud the State or willfully to conceal the property,

1 delivers, or causes to be delivered, less property than the
2 amount for which the person receives a certificate or
3 receipt;

4 (5) authorized to make or deliver a document certifying
5 receipt of property used, or to be used, by the State and,
6 intending to defraud the State, makes or delivers the
7 receipt without completely knowing that the information on
8 the receipt is true;

9 (6) knowingly buys, or receives as a pledge of an
10 obligation or debt, public property from an officer or
11 employee of the State, or a member of the Guard, who
12 lawfully may not sell or pledge the property; ~~or~~

13 (7) knowingly makes, uses, or causes to be made or
14 used, a false record or statement to conceal, avoid or
15 decrease an obligation to pay or transmit money or property
16 to the State;~~7~~

17 (8) knowingly takes adverse employment action against
18 an employee for disclosing information to a government or
19 law enforcement agency, if the employee has reasonable
20 cause to believe that the information discloses a violation
21 of a State or federal law, rule, or regulation or a
22 violation of an ordinance, resolution, rule, or regulation
23 of a governmental entity described in the definition of
24 State in Section 2; or

25 (9) knowingly retaliates against an employee who has
26 disclosed information in a court, an administrative

1 hearing, before a legislative commission or committee, or
2 in another proceeding and discloses information, if the
3 employee has reasonable cause to believe that the
4 information discloses a violation of a State or federal
5 law, rule, or regulation or a violation of an ordinance,
6 resolution, rule, or regulation of a governmental entity
7 described in the definition of State in Section 2;

8 is liable to the State for a civil penalty of not less than
9 \$5,500 and not more than \$11,000, plus 3 times the amount of
10 damages which the State sustains because of the act of that
11 person. A person violating this subsection (a) shall also be
12 liable to the State for the costs of a civil action brought to
13 recover any such penalty or damages.

14 (b) Knowing and knowingly defined. As used in this Section,
15 the terms "knowing" and "knowingly" mean that a person, with
16 respect to information:

17 (1) has actual knowledge of the information;

18 (2) acts in deliberate ignorance of the truth or
19 falsity of the information; or

20 (3) acts in reckless disregard of the truth or falsity
21 of the information, and no proof of specific intent to
22 defraud is required.

23 (c) Claim defined. As used in this Section, "claim"
24 includes any request or demand, whether under a contract or
25 otherwise, for money or property which is made to a contractor,
26 grantee, or other recipient if the State provides any portion

1 of the money or property which is requested or demanded, or if
2 the State will reimburse such contractor, grantee, or other
3 recipient for any portion of the money or property which is
4 requested or demanded. A claim also includes a request or
5 demand for money damages or injunctive relief on behalf of an
6 employee who has suffered an adverse employment action taken in
7 violation of paragraphs (8) or (9) of subsection (a).

8 (d) Exclusion. This Section does not apply to claims,
9 records, or statements made under the Illinois Income Tax Act.

10 (Source: P.A. 94-1059, eff. 7-31-06.)"